

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Civil Action No.: 3:20-cv-00005-RJC-DCK**

ELIJAH MCCLURE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	<b>ANSWER</b>
CHARLOTTE-MECKLENBURG	)	
BOARD OF EDUCATION,	)	
	)	
Defendant.	)	
_____	)	

The Defendant, the Charlotte-Mecklenburg Board of Education (“Defendant” or “the Board”), by and through undersigned counsel, hereby answers the allegations contained in Plaintiff’s Complaint as follows:

**PARTIES**

1. Upon information and belief, allegation in Paragraph 1 is admitted.
2. It is admitted that Defendant is a local governmental entity and that it operates a public school system in Charlotte and Mecklenburg County, North Carolina known as the Charlotte-Mecklenburg Schools (“CMS” or “the District”). Except as expressly admitted herein, the allegations in Paragraph 2 are denied.

**NATURE OF ACTION**

3. Paragraph 3 states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, Defendant denies the allegations.

## **JURISDICTION**

4. Paragraph 4 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations are denied.

5. Paragraph 5 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations are denied.

6. The allegations in Paragraph 6 are denied.

## **FACTS**

7. It is admitted that Plaintiff attended Hopewell High School ("Hopewell"). Except as expressly admitted herein, the allegations in Paragraph 7 are denied.

8. It is admitted that on October 1, 2015, there was a physical altercation on the campus of Hopewell involving an unknown number of students. Except as expressly admitted herein, the allegations in Paragraph 8 are denied. By way of further information, Plaintiff was observed chasing another student and striking that student in the face.

9. The allegations in Paragraph 9 are denied.

10. Defendant lacks sufficient knowledge or information upon which to form a belief regarding which students are being referenced in Paragraph 10, and therefore, denies the same. The remaining allegations in Paragraph 10 are denied.

11. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 11, and therefore, denies the same.

12. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations set forth in Paragraph 12, and therefore, denies the same.

13. The allegations in Paragraph 13 are denied. By way of further information, there is no evidence that Plaintiff reported any assault or injury to any staff prior to leaving the school grounds on October 1, 2015.

14. The allegations in Paragraph 14 are denied.

15. Defendant lacks knowledge or information sufficient to form a belief regarding Plaintiff's purported injuries, severity of injuries, any subsequent treatment for any alleged injuries, or harassment by any other individual and therefore denies the same. All other allegations in Paragraph 15 are denied.

### **GOVERNMENTAL IMMUNITY**

16. Paragraph 16 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations are denied.

17. The allegations in Paragraph 17 are denied.

18. Paragraph 18 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations in are denied.

### **FIRST CLAIM FOR RELIEF**

19. Defendant hereby re-alleges the responses previously set forth in the Answer and incorporates them by reference as if fully set forth herein.

20. Paragraph 20 states legal conclusions and questions of law to which no response is required. To the extent a response is deemed necessary, the allegations are denied.

21. The allegations in Paragraph 21, including subparagraphs a through g, are denied.

22. The allegations in Paragraph 22 are denied.

23. The allegations in Paragraph 23 are denied.

### **SECOND CLAIM FOR RELIEF**

24. Defendant hereby re-alleges the responses previously set forth in the Answer and incorporates them by reference as if fully set forth herein.

25. Paragraph 25 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations are denied.

26. Paragraph 26 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations, including subparagraphs a through e, are denied.

27. The allegations in Paragraph 27 are denied.

28. The allegations in Paragraph 28 are denied.

29. The allegations in Paragraph 29 are denied.

### **THIRD CLAIM FOR RELIEF**

30. Defendant hereby re-alleges the responses previously set forth in the Answer and incorporates them by reference as if fully set forth herein.

31. Paragraph 31 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations are denied.

32. Paragraph 32 of Plaintiff's Complaint states legal conclusions and questions of law, to which no response is required. To the extent a response is deemed necessary, the allegations are denied.

33. The allegations in Paragraph 33 are denied.

34. The allegations in Paragraph 34 are denied.
35. The allegations in Paragraph 35, including subparagraphs a through c, are denied.
36. The allegations in Paragraph 36 are denied.

### **PRAYER FOR RELIEF**

The remainder of the Complaint constitutes Plaintiff's requests for relief to which no responsive pleading is necessary. To the extent a responsive pleading is required, Defendants deny that Plaintiff is entitled to the relief sought.

### **AFFIRMATIVE DEFENSES**

1. The Complaint should be dismissed because Plaintiff fails to state a claim upon which relief can be granted.
2. The Complaint should be dismissed because Plaintiff's claims are barred by governmental immunity.
3. The Complaint should be dismissed because Plaintiff's claims are barred by the statute(s) of limitations.
4. Defendant reserves the right to amend the Answer and assert any additional affirmative defenses as they may become available or apparent throughout this litigation.

**WHEREFORE**, the Defendant prays the Court as follows:

1. That Plaintiff have and recover nothing of Defendant in this action;
2. That the Court dismiss this action in its entirety with prejudice;
3. That the Court award Defendant costs, attorneys' fees, and all other fees incurred in the defense of this action as provided by applicable law; and
4. For such other relief as the Court deems just and proper.

This the 9th day of January, 2020.

/s J. Melissa Woods

J. Melissa Woods  
Attorney for Defendant  
N.C. Bar No. 21312  
Senior Associate General Counsel  
Charlotte-Mecklenburg Board of Education  
600 E. Fourth Street, 5<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Phone: 980-343-6228  
Facsimile: 980-343-5739  
Email: [jamiem.woods@cms.k12.nc.us](mailto:jamiem.woods@cms.k12.nc.us)

/s Deja D. Kemp

Deja D. Kemp  
Attorney for Defendant  
N.C. Bar No. 50810  
Senior Associate General Counsel  
Charlotte-Mecklenburg Board of Education  
600 E. Fourth Street, 5<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Phone: 980-343-6228  
Facsimile: 980-343-5739  
Email: [deja1.kemp@cms.k12.nc.us](mailto:deja1.kemp@cms.k12.nc.us)

## **CERTIFICATE OF SERVICE**

This is to certify that on this date I electronically filed the foregoing ANSWER with the Clerk of Court using the CM/ECF systems, which will automatically serve the following CM/ECF participant(s):

F. William DeVore, IV  
Derek P. Adler  
DeVore, Acton & Stafford, P.A.  
438 Queens Rd.  
Charlotte, NC 282067  
[wdevore@devact.com](mailto:wdevore@devact.com)  
Attorneys for Plaintiff

This the 9th day of January, 2020.

/s J. Melissa Woods  
J. Melissa Woods  
Attorney for Defendant  
N.C. Bar No. 21312  
Senior Associate General Counsel  
Charlotte-Mecklenburg Board of Education  
600 E. Fourth Street, 5<sup>th</sup> Floor  
Charlotte, North Carolina 28202  
Phone: 980-343-6228  
Facsimile: 980-343-5739  
Email: [jamiem.woods@cms.k12.nc.us](mailto:jamiem.woods@cms.k12.nc.us)